



Eighteenth session

INFORMATION FROM NON-SELF-GOVERNING TERRITORIES

POLITICAL AND CONSTITUTIONAL INFORMATION  
ON AFRICAN AND ADJACENT TERRITORIES UNDER  
UNITED KINGDOM ADMINISTRATION

Note by the Secretary-General

NYASALAND

In accordance with the statement of the Secretary of State for Foreign Affairs of the United Kingdom of Great Britain and Northern Ireland on 27 September 1961, the Government of the United Kingdom has transmitted to the Secretary-General the following political and constitutional information on the Territory of Nyasaland.

This information, which was received on 28 February 1963, is herewith submitted to the General Assembly at its eighteenth session.<sup>1/</sup>

<sup>1/</sup> In accordance with General Assembly resolution 1700 (XVI) of 19 December 1961, this information is also submitted to the Committee on Information from Non-Self-Governing Territories.

## NYASALAND

### POPULATION

1. The estimated population of Nyasaland at 30 June 1962, was 2,951,700. The breakdown by races is as follows:

Africans . . . . .	2,930,000
Asians and other . . . . .	12,500
Europeans . . . . .	9,200
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	2,951,700

2. The population density of Nyasaland, about eighty-one persons to the square mile (excluding lake area) is one of the highest in Africa.

### STATUS AND PREVIOUS HISTORY

3. Nyasaland is a British Protectorate at present forming part of the Federation of Rhodesia and Nyasaland although Her Majesty's Government have accepted, in principle, the Territory's right to secede. The new Constitution of Nyasaland is based on the agreed recommendations of a Constitutional Conference which took place in November 1962 and which was attended by representatives of both major political parties in the Territory including Dr. H.K. Banda, who is now Prime Minister. At that time the Territory had African elected representation in both the Legislative and Executive Councils. The former had 28 elected members and 3 ex-officio members (i.e., civil servants). The Executive Council consisted of 10 Ministers, of whom 7 were elected members of the Legislative Council and 3 were civil servants.

4. The purpose of the 1962 Conference was to consider further constitutional advance in Nyasaland, to secure a stable and prosperous future for the Territory and, on the part of Her Majesty's Government, to continue the process of achieving an honourable and orderly conclusion of their responsibilities as Protecting Power.

5. The Conference agreed to proposals for a self-governing constitution to be introduced in two stages.

6. The first stage took effect on 1 February 1963, and the then existing Constitution was amended to bring into force certain changes in the composition of the Executive Council, restyled "Cabinet", and the Legislature. At the second stage, in the late spring, a completely new Constitution, as agreed at the Conference, will be brought into operation.

### THE 1963 CONSTITUTION

7. The main provisions of the new Constitution are as follows:

#### Governor

8. The Governor (at present Sir Glyn-Jones) is head of the administration of the Territory. He is required to consult the Cabinet in the exercise of his functions in most cases, and would normally act in accordance with the advice he receives. The Governor retains reserved powers in the fields of the economy and finance, the Public Service, public safety and the operational control of the police. He is assisted by a Deputy Governor.

#### Cabinet

9. The Cabinet replaces the former Executive Council and is composed of a Prime Minister, normally not more than eight other Ministers, and the Financial Secretary who is ex-officio Minister of Finance. There is provision under the Constitution that the number of ministers can be increased if the Prime Minister considers it necessary and Her Majesty's Government concur, and under which, at a time to be agreed upon between the Nyasaland Government and Her Majesty's Government, the portfolio of Finance can be assumed by an elected member. The Cabinet has general direction and control of the Nyasaland Government and is collectively responsible to the Legislative Assembly.

#### Prime Minister and Other Ministers

10. The Governor is required to invite the member of the Legislative Assembly who appears to him likely to command the support of the majority of the members of the Assembly, to form a government and serve in the office of Prime Minister. The other ministers are appointed by the Governor on the advice of the Prime Minister.

from among members of the Legislative Assembly, except that not more than three (or so long as the Financial Secretary remains Minister of Finance, two) may be appointed from among other persons who are not elected members of the Legislative Assembly but are qualified to be elected members of the Assembly.

11. The Prime Minister is removable by the Governor, but only if a vote of no confidence in the Prime Minister has been passed by the Legislative Assembly and the Prime Minister does not within three days either resign or ask for a dissolution. The other ministers are removable by the Governor on the advice of the Prime Minister. If the Prime Minister resigns or is removed, the other ministers (except the ex-officio Minister of Finance) will also vacate their offices.

12. The ministers at present holding office are:

Dr. H.K. Banda . . . . .	Prime Minister and Minister of Natural Resources
Mr. O.E.C. Chirwa . . . . .	Minister of Justice
Mr. H.E.I. Phillips . . . . .	Minister of Finance
Mr. M.W.K. Chiume . . . . .	Minister of Education, Social Development and Information
Mr. H.B.M. Chipembere . . . . .	Minister of Local Government
Mr. A.W. Ewanausi . . . . .	Minister of Works and Housing
Mr. C. Cameron . . . . .	Minister of Transport and Communications
Mr. J.D. Msonthi . . . . .	Minister of Trade and Industry
Mr. W. Chokani . . . . .	Minister of Labour
Mr. M. Mkandawire . . . . .	Minister of State

13. The Governor, on the advice of the Prime Minister, has power to appoint parliamentary secretaries to assist ministers. At present there is one:

Mr. J.Z.U. Tembo, Ministry of Finance.

#### Legislative Assembly

14. The Legislative Assembly replaces the former Legislative Council and consists of a Speaker, the Financial Secretary, so long as he is a member of the Cabinet, and, for the present, twenty-eight elected members. Any minister who is not a member of the Legislative Assembly has the right to attend and take part in the proceedings of the Assembly, but not to vote. The Assembly has a life of not more than five years.

15. The Speaker is elected by the Legislative Assembly from amongst its own number or from outside the Assembly. If he is elected from within the Assembly he does not vacate his seat as a member. Ministers and parliamentary secretaries are not eligible to hold the office of Speaker or his deputy. The present Speaker, who was appointed before the introduction of the new Constitution, will continue to hold office until the next general election. The Deputy Speaker is elected by the Assembly from its own number.

16. The present membership of the Legislative Assembly is as follows:

Mr. W. Wenban-Smith . . . . . Speaker

Elected Members<sup>a/</sup>

Dr. H.K. Banda . . . . .	Member for Kasunga/Fort Manning
Mr. M.W.K. Chiume . . . . .	Member for Rumpi
Mr. A.W. Bwanausi . . . . .	Member for Blantyre Urban
Mr. C. Cameron (Independent) . . .	Member for Soche
Mr. M. Mkandawire . . . . .	Member for Northern Districts
Mr. O.E.C. Chirwa . . . . .	Member for Nkata Bay
Mr. Y.T. Chisiza . . . . .	Member for Karonga
Mr. M.H. Blackwood Party - UFP) . . . . .	Member for Blantyre
Mr. D.A. Little (UFP) . . . . .	Member for Limbe
Mr. E.C. Peterkins (UFP) . . . . .	Member for Southern Districts
Mr. G.C. Chakuamba . . . . .	Member for Lower River
Mr. M.Q.Y. Chibambo . . . . .	Member for Mzimba North
Mr. R.B. Chidzanja . . . . .	Member for Lilongwe South
Mr. H.W.D. Chikafa . . . . .	Member for Mlanje
Archdeacon H. Chipembere . . . . .	Member for Fort Johnston/Kasupe
Mr. A.W. Chipungu . . . . .	Member for Cholo
Mr. W. Chokani . . . . .	Member for Chiradzulu
Mr. R.H. Duncan (UFP) . . . . .	Member for Shire North
Mr. W.P. Gomani . . . . .	Member for Neheu

<sup>a/</sup> Except where otherwise indicated, members belong to the Malawi Congress Party (MCP).

Mr. H. Kachaje . . . . .	Member for Lilongwe North
Mr. G.W. Kuntumanji . . . . .	Member for Zomba
Mr. H.H. Masan . . . . .	Member for Dowa
Mr. R.G. Morgan (UFP) . . . . .	Member for Lilongwe Town
Mr. J.D. Msonthi . . . . .	Member for Kota Kota
Mr. A.M. Nyasulu . . . . .	Member for Mzimba South
Mr. S.B. Somanje . . . . .	Member for Blantyre Rural
Mr. I.N. Surtee . . . . .	Member for Central Districts
Mr. J.Z.U. Tembo . . . . .	Member for Dedza
Mr. H.E.I. Phillips ( <u>ex-officio</u> Member) . . . . .	Minister of Finance

#### ELECTORAL SYSTEM

17. Under the franchise arrangements agreed upon at the 1960 Conference, the elected members of the Legislative Council are elected in single-member constituencies, twenty by voters on an electoral roll with lower qualifications and eight by voters on an electoral roll with higher qualifications. All voters on both rolls must be at least twenty-one years of age, have resided in Nyasaland for two years prior to registration, and be British subjects or British protected persons belonging to Nyasaland. For the lower roll, voters must be literate in English and have certain income or property qualifications; or be literate in either English or a local language and be a taxpayer; or hold certain offices or positions, e.g., chiefs, village headmen, master farmers, pensioners or ex-servicemen. For the higher roll, voters must be able to satisfy a general education requirement as well as certain higher income or property qualifications.
18. The last general election was held on 15 August 1961, at which candidates sponsored or supported by the Malawi Congress Party (MCP), led by Dr. H. Banda, won 23 of the 28 seats (including one independent with MCP support); the remaining 5 were won by the United Federal Party (UFP).
19. At the 1962 Conference it was noted that the MCP desired an extension of the franchise and that the UFP wished for continued special representation of the European community. The Conference accepted the proposal that as there was no immediate desire on the part of delegates to the Conference for fresh elections in

the near future, future changes to the franchise could be agreed upon through further consultations at a later convenient date.

#### JUDICIARY

20. The High Court of Nyasaland consists of a Chief Justice and two puisne judges, and deals with all cases involving serious offences. For less serious offences there are magistrates' courts. Appeals from subordinate courts in civil and criminal matters lie to the High Court, and from the High Court to the Federal Supreme Court. Appeals in criminal matters to the High Court may be on matters of facts as well as matters of law.

21. There are also African courts which are constituted in accordance with local law or custom and are presided over by chiefs or specially appointed presidents, assisted by assessors. Their jurisdiction is limited to cases where all the parties are African and the defendant is within the jurisdiction of the court concerned.

22. The new Constitution incorporates the following changes which were agreed upon at the 1962 Conference.

23. The appointment of the Chief Justice will be made by the Governor after consultation with the Prime Minister. Other judges of the High Court will be appointed by the Governor on the advice of the Judicial Service Commission. Any appointment of an acting Chief Justice will be made by the Governor in his discretion, and of an acting judge by the Governor on the advice of the Judicial Service Commission. Judges salaries, which are at present fixed by the Governor, will be prescribed by law.

24. The Constitution provides for the establishment of a Judicial Service Commission with executive powers. Until a compensation scheme is brought into operation, the Commission will be advisory to the Governor in respect of overseas civil servants.

#### BILL OF RIGHTS

25. The 1962 Conference agreed that the new Constitution should contain a Bill of Rights guaranteeing protection from slavery and forced labour, inhuman treatment, deprivation of property without compensation, protection of privacy of

the home, protection of the law, protection of freedom of conscience, freedom of expression, freedom of assembly and association, freedom of movement and protection against discrimination. The necessary provisions will be embodied in the new Constitution.

#### LOCAL GOVERNMENT

26. The basic unit of local government is the Native authority council. These councils are generally responsible for the welfare of the inhabitants of their area, and have certain responsibilities in connexion with the maintenance of public order and the administration of justice. The chief of the area, who is an ex-officio member of the council, is normally chairman, and the councillors themselves are either hereditary or selected in accordance with public opinion in their area.

27. In eleven of the eighteen districts into which Nyasaland is divided, district councils have been established. The district councils control their own finances, levy rates and taxes and make by-laws on such matters as agriculture, education, veterinary services and water supplies, and have thus largely taken over the financial and legislative responsibilities of the Native authority councils in their area. Under legislation which came into effect on 30 June 1962, all councillors on district councils who held office for six months or more vacated their seats, which were then contested at elections on the basis of universal adult suffrage.

28. The towns of Blantyre/Limbe, Zomba, Lilongwe and Salima have town councils established under the Townships Ordinance. These councils maintain roads, markets and other services, and may make by-laws on a wide variety of subjects. They may levy rates in order to raise revenue. In fourteen other rural population centres, rural area boards have been set up with more restricted powers and duties. At present, the majority of members of the town councils and rural area boards are appointed by the Government.



## POLITICAL PARTIES

29. The two main political parties are the Malawi Congress Party (MCP) and the United Federal Party (UFP). Both have elected members in the Legislative Assembly.
30. The Malawi Congress Party, which was formed in 1959, is led by Dr. Banda, its Life President. It has a wide African and small European membership. Its main aims include the secession of Nyasaland from the Federation of Rhodesia and Nyasaland (the right to which Her Majesty's Government have agreed in principle), early self-government and independence, non-violence, universal education, Africanization of the Civil Service, reorganization of the system of local government, reconciliation of the traditional position of chiefs with the new parliamentary structure, improvement of the social services, commercialization and modernization of agriculture and the building of basic economic institutions for finance, transport, power and water supplies, distribution and similar services.
31. In the Legislature where the Party has twenty-three seats (including an Independent who has MCP support) it has followed progressive policies and has introduced several new laws, notably on African education, the reorganization of district councils, the introduction of a new personal tax, and providing for the issue of development bonds to help the economy.
32. The United Federal Party (UFP) came into existence in 1957. The main aims of the party are as follows:
- (a) Nyasaland is to remain within the Federation, self-governing in territorial functions.
  - (b) Africans are to participate increasingly in government as they gain political experience.
  - (c) Opportunities in the Civil Service are to be available for persons of all races with advancement by merit alone.
  - (d) All remaining vestiges of unfair racial discrimination are to be removed so as to implement fully a policy of partnership.
33. At the 1962 Conference the UFP strongly urged that the position of minority communities should be protected by means of a Bill of Rights.

34. The Party won five of the eight Upper poll seats in the last election, and its leader, Mr. H. Blackwood, is the Leader of the Opposition in the Legislature.
35. There are a few other minority parties in Nyasaland none of which has representation in the Legislative Assembly, or any significant membership.

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